

HOUSE No. 1978

By Mr. Travis of Rehoboth, petition of Philip Travis relative to school buses and the operation thereof. Transportation.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT AMENDING THE LAW RELATIVE TO SCHOOL BUSES AND THE OPERATION THEREOF.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of Chapter 90 of the General Laws is
2 hereby amended by striking the definition of “school bus” there-
3 under and substituting therefor the following:—

4 “School bus”, any motor vehicle designed to carry more than
5 ten passengers in addition to the operator and used for the trans-
6 portation of school pupils:

7 (i) To and from schools, group day care centers and school age
8 child care programs and (ii) in activities related to such schools,
9 centers and programs, but not any such motor vehicle used for not
10 more than five days in case of emergency or a motor vehicle while
11 also used for the common carriage of the public under a certificate
12 and permit issued under sections seven and eight of chapter one
13 hundred and fifty-nine A or a motor vehicle used to transport
14 vocational education students participating in a work project to
15 and from work site having permanent seating accommodations for
16 not more than fifteen persons in addition to the operator.

1 SECTION 2. Section 1 of Chapter 90 is hereby further
2 amended by striking the definition of “school pupil” therein and
3 substituting the following:—

4 “School Pupil,” any person enrolled (i) in any school, pre-
5 kindergarten through grade twelve, or (ii) in any group day care

6 center or school age child care program or (iii) in any program for
7 children with special needs as defined in Section 1 of
8 Chapter 71B, and being transported to or from, or in activities
9 related to one of the foregoing.

1 SECTION 3. Section 1 of Chapter 90 of the General Laws is
2 hereby further amended by adding at the end of thereof the
3 following:—

4 “Transit Type Bus”, A motor bus not more than ten years old,
5 originally designed and constructed with a separate and closed
6 compartment for all luggage and belongings of passengers.

1 SECTION 4. Section 7B of Chapter 9 is hereby amended by
2 striking paragraph 2 and by adding at the end of said section the
3 following paragraph:—

4 The provisions of this Section, except clauses (3), (4), (5), (8),
5 (9), and (10), shall not apply to the transportation of school pupils
6 and other minors in activities, such as field trips, related to
7 schools, group day care centers, school age child care programs or
8 special needs programs, camps and other recreational programs
9 where such transportation is in a transit-type bus.

1 SECTION 5. Section 7B of Chapter 90 is hereby amended from
2 clause (4) the word “annual” and inserting in place thereof the
3 word “biennial”.

1 SECTION 6. Section 7D of Chapter 90, is hereby further
2 amended by striking out the words “eight passengers in addition
3 to the operator, used in the business of transporting school pupils
4 for hire under terms of contract of or otherwise” and inserting in
5 place thereof the words:— ten passengers in addition to the oper-
6 ator, used in transporting school pupils.

1 SECTION 7. Section 7D of Chapter 90 is hereby further
2 amended by deleting the last paragraph and substituting therefor
3 the following paragraph:—

4 The provisions of this Section, excluding the seat belt require-
5 ment, shall not apply to transportation by an operator who is
6 uncompensated for his or her service and is either a parent of one

7 of the passengers or is a person chosen by the parents of all the
8 passengers; (b) to transportation in activities related to a school, a
9 group day care center, a school age child care program or a special
10 needs program, provided the operator is a person whose primary
11 relationship to the passengers is that of teacher, coach, director, or
12 caregiver, and not as an operator.

1 SECTION 8. Chapter 90 of the General Laws is hereby
2 amended by adding the following new Section:—

3 Section 7DD. The transportation of minor children not meeting
4 the definition of school pupil in Section 1 of this Chapter shall be
5 subject to regulation as follows:—

6 (a) Transportation in any vehicle designed to carry more than
7 fifteen passengers in addition to the driver shall be subject to all
8 provisions of Section 7B of this chapter (except Clause (6)
9 relating to paint colors and except that Clause (17) shall not take
10 effect until 1/1/98).

11 (b) Transportation in any vehicle designed to carry fifteen or
12 fewer passengers shall not be subject to the provision of
13 Section 7B, except clauses (3), (5), (8), (9) and (10) nor to the
14 provisions of Section 7D, except for provisions relating to the
15 installation and wearing of seat belts, nor to the provisions of
16 Section 8A except that the driver of such vehicle shall be a person
17 who meets the qualifications set forth in clauses (i), (ii), and (iii)
18 of subsection (a) except as to approval by the Registrar under
19 Clause (11).

20 (c) The employer of an operator of a vehicle described in para-
21 graph (b) hereunder shall require said operator, prior to operation,
22 to furnish a copy of (i) his or her driving record as compiled by
23 the issuer of said license and (ii) his or her criminal offender
24 record information as referred to in Section 167 of Chapter 6. If
25 either said record as provided discloses any act as to ineligibility
26 for operation under this Section or the employer has actual knowl-
27 edge of ineligibility not disclosed in either record as provided, the
28 employers shall be deemed, prima facie, in violation of Section 11
29 of this Chapter.

1 SECTION 9. Chapter 90 of the General Laws is hereby further
2 amended by striking Sections 8A and 8A½ in their entirety and
3 substituting therefor the following Section:—

4 Section 8A. (a) No person shall be eligible for a license to
5 operate a motor vehicle under the provisions of Section 7B or
6 Section 7D unless he or she: (1) has been a duly licensed motor
7 vehicle operator for a period of at least three continuous years
8 immediately prior to application for a license and said license is in
9 force and has not been suspended or revoked; (ii) has satisfied the
10 Registrar that he or she is of good moral character; (iii) has not
11 been convicted of the crime of rape; unnatural act; sodomy; or the
12 use, sale, manufacture, distribution, possession with intent to dis-
13 tribute, or trafficking of any of the controlled substances which
14 are unlawful under the provisions of Chapter ninety-four C; or
15 operating a motor vehicle while under the influence of intoxi-
16 cating liquor or of marijuana, narcotic drugs, depressants or stim-
17 ulant substances, as defined in Section one of Chapter
18 ninety-four C or the vapors of glue within the preceding five-year
19 period under the provisions of Section twenty-four and any person
20 who consented to have any such case disposed of under the provi-
21 sions of Section twenty-four D shall for the purpose of this
22 Section be deemed to have been convicted; (iv) has successfully
23 completed a driving performance test (unless applying for a
24 license to operate under Section 7D), a visual test, a written test
25 and a physical examination by a licensed physician within three
26 months of the date of his or her application in conformity with
27 such minimum physical qualifications as shall be determined by
28 the Registrar, provided, however, that a person who has passed his
29 seventieth birthday and is mentally and physically capable of per-
30 forming the duties of a school bus operator shall be eligible for a
31 license under this section. Such person shall twice annually at his
32 own expense, be examined by a physician to determine such capa-
33 bility. Said examination shall not be completed within a six month
34 period of each other and a copy of all such exams shall be main-
35 tained by the employer and the first physical examination shall be
36 completed within thirty days prior to the beginning of the school
37 year.

38 (b) All original applicants for a Registry of Motor Vehicles
39 School Bus Driver's License or Department of Public Utilities

40 License, as required by Section 7B shall have first satisfactorily
41 completed a pre-service school bus driver training program estab-
42 lished by the commissioner of education in collaboration with the
43 registrar and the commissioner of the department of public utili-
44 ties. In addition, all renewal applicants for a Registry of Motor
45 Vehicles School Bus Driver's License or a Department of Public
46 Utilities driver's license when used to drive school pupils to or
47 from school shall have first satisfactorily completed an in-service
48 driver training program established by the commissioner of educa-
49 tion in collaboration with the registrar and the commissioner of
50 the department of public utilities. All original applicants for a
51 Registry of Motor Vehicles School Bus Driving instructor's cer-
52 tificate shall have first satisfactorily completed an instructor's
53 training program as approved by the registrar. No person shall be
54 employed to provide instruction in any capacity for the operation
55 of a school bus unless such person is the holder of such an instruc-
56 tor's certificate issued by the registrar.

57 Notwithstanding the provisions of section thirty-two G of
58 chapter ninety to the contrary, a person may engage in the busi-
59 ness of instruction in pre-service and in-service school bus dri-
60 ver's training programs by being a certified school bus instructor.
61 A private driving school licensed under section thirty-two G may
62 offer pre-service and in-service school bus driver training pro-
63 grams for compensation, provided that such school shall offer said
64 training under the direction of a certified school bus driving
65 instructor.

66 Applications for a certificate, under this section, may be filed
67 with the registrar and shall contain such information as he shall
68 prescribe. Each such application shall be accompanied by an
69 application fee which in no event shall be refunded. The applica-
70 tion fee and biennial fee to maintain said certificate shall be deter-
71 mined by the commissioner of administration under the provision
72 of section three B of chapter seven. No fee or compensation shall
73 be charged in whatever manner to the participants in the pre-
74 service and in-service training courses. Any such license or
75 special permit or school bus driving instructor's certificate issued
76 under the provisions of this section shall be valid for a period of
77 twenty-four months from date of issue.

78 Upon application for a renewal of such license for such instruc-
79 tor's certificate, the registrar shall require evidence of physical fit-
80 ness and may require evidence of continuing good character.

81 The registrar may suspend or revoke a license or instructor's
82 certificate granted under authority of this section for a violation of
83 any of the provisions of this chapter, or on other reasonable
84 grounds, or where, in his opinion, the licensee or instructor is
85 either physically or morally unfit to retain the same.

86 The registrar may make such rules and regulations as he may
87 deem necessary to carry out the provisions of this section.

88 (c) Every person transporting school pupils in accordance with
89 the provision of Section 7D shall be duly licensed in accordance
90 with the provisions of this section; provided, however, that in case
91 of any emergency such vehicle may, for a period not to exceed
92 three consecutive school days, be operated by any person, twenty-
93 one years of age or over, who is duly licensed by the registrar and
94 has in his possession a valid Massachusetts operator's license; and
95 provided further a person who is duly licensed by the registrar in
96 accordance with the provisions of section eight A or the depart-
97 ment of public utilities may operate such vehicles without
98 obtaining a license under this section.

99 Any such license issued under the provisions of this section
100 shall be valid for a period of twenty-four months from the date of
101 issue. Upon application for renewal of such license the registrar
102 shall require evidence of continuing good character and physical
103 condition.

104 The registrar may suspend or revoke any license granted under
105 authority of this section for a violation of any of the provisions of
106 this chapter, or on other reasonable grounds or where, in his
107 opinion, the licensee is either physically or mentally unfit to retain
108 the same.

109 The registrar may make such rules and regulations as he may
110 deem necessary to carry out the provisions of this section. Each
111 original application shall be accompanied by an application fee
112 which in no event shall be refunded. The application fee and a fee
113 to maintain said license shall be determined by the commissioner
114 of administration under the provisions of section three B of
115 chapter seven.